



**Silver Creek Watershed Stakeholders Group
Lower Silver Creek Work Group
Convening Report and Proposed Process Design
April 24, 2006**

Introduction

The Silver Creek Watershed Stakeholders' Group was started in 1999. The group initially focused on the upper portion of the watershed, and many environmental improvements have been accomplished in that section of the watershed. The group has had some meetings to explore investigation and remediation options in the middle reach of Silver Creek. More information about the full stakeholder group and its activities can be found at www.silvercreekpc.org.

The Stakeholders' Group was initially convened and the group process designed by an independent third party facilitator – Mike Hughes, then with RESOLVE. After the first year or so, the full group conducted its meetings without a facilitator until recently. A local independent third party facilitator – Michele Straube with CommUnity Resolution, Inc. – was hired in 2001 to convene and design a collaborative process for a stakeholder work group focused on soils issues in the Prospector Square area. The soils work group met for several years and successfully completed its work in spring 2004. In 2006, Ms. Straube began facilitating the full Stakeholders' Group. Third party facilitation services are being paid for by EPA Region VIII.

At its January 13, 2006 meeting, the full Stakeholders' Group tasked the facilitator to convene a work group to focus specifically on Lower Silver Creek. Several stakeholders indicated that current and future development plans for properties abutting Lower Silver Creek make it timely to identify and address any remediation / restoration requirements in this lower stream segment.

Michele Straube met, by telephone and in person, with stakeholders in the full watershed group and other people to gather needed information for creating an effective Lower Silver Creek work group. She asked questions about what interests and individuals should be included in the work group, and what some of the potential issues were likely

to be. Landowners, as well as known developers, for this portion of Lower Silver Creek were identified, but no effort has been made yet to contact them personally. ^[1] Based on that information and on independent research, this convening report summarizes what Ms. Straube learned and her process suggestions for the work group's first two meetings and beyond.

Geographic Boundary

The relevant geographic reach for the Lower Silver Creek work group is a matter of interpretation. Everyone agrees that the upstream end begins at Utah State Route 248 (aka the northern end of Richardson Flats). The full Stakeholders Group asserted at their January 2006 meeting that the relevant "Lower Silver Creek" area ended at "the dairy" (aka Atkinson, this stream segment is also sometimes referred to as the southern portion of Lower Silver Creek), and most interviewees have agreed with that boundary. One interviewee suggested that there is known contamination from mining in Silver Creek all the way from Route 248 to the Silver Creek / Weber River confluence in Wanship, and that therefore this entire reach should be a part of the work group's discussions.

An innovative site assessment conducted by UDEQ in 2001/2002 collected analytical samples from Route 248 to the confluence in Wanship, and concluded that all of the Lower Silver Creek area (southern and northern portions) should be placed on the CERCLIS list for further investigation and possible remediation under Superfund. A visual reconnaissance of the area confirms that the topography changes drastically at Atkinson, with the northern portion of Lower Silver Creek being confined within canyon walls, along with the rail trail and the I-80 highway corridor. Thus, the conditions possibly affecting Silver Creek stream quality (mine tailings, land use, infiltration, etc.), the options for remediation / restoration, and the stakeholders who will have control over and/or be affected by any remediation / restoration appear to be quite different in the southern and northern portions of Lower Silver Creek.

For these reasons, Ms. Straube recommends that the geographic boundary of the Lower Silver Creek work group be initially limited from Route 248 to the area referred to as "the dairy" or "Atkinson" (the southern portion of Lower Silver Creek). The work group should revisit this recommendation in its first meeting, and if confirmed, can expand its focus and geographic boundary to include the northern portion of Lower Silver Creek at a later time when sufficient progress has been made on investigating and remediating / restoring the southern portion.

The remainder of this convening report assumes that the work group will initially address the southern portion of Lower Silver Creek, as described above.

Potential Issues and Challenges

The southern portion of Lower Silver Creek was historically used for mining-related activities. The Big Four Mill operated until 1918. In the mid-1900s, some tailings were moved and removed off-site for re-processing. In 2002, UDEQ conducted an innovative site assessment and recommended that the site be included on CERCLIS for further investigation under the Superfund program. This recommendation has not yet been implemented.

The riparian landscape in this portion of Lower Silver Creek has been described as including many non-vegetated tailings piles and numerous jurisdictional wetlands areas. Development interest is growing:

- Some commercial development exists upland on the west side of the stream.
- The Promontory Development has already completed extensive construction in the upland areas on the east side of the stream. They are in the process of building an equestrian center, also some distance from the stream and known tailings materials.

- A major development, Silver Gate Ranches, was just approved by the Summit County Commission in mid March 2006. The exact location and timing of their construction plans is currently unknown, but can be expected to be imminent.
- Development plans in this area proposed by Anderson Development have not been approved and are currently in litigation.
- It is our understanding that an environmental site assessment is being conducted for land east of Richardson Flats, but no specific details of the precipitating transaction are known.

We are unaware of any other existing or currently planned development in the riparian areas of this portion of Lower Silver Creek.

The rail trail, well-used by the public, follows along the stream through this entire section.

As of 2002, two active drinking water wells existed in the southern portion of Lower Silver Creek, operated by Mountain Regional SSD.

Silver Creek was listed on Utah's 1998, 2000, and 2002 303(d) list of impaired waterways for zinc and cadmium contamination. There has been a fish consumption advisory posted since 2004 for all of Silver Creek, including this lower reach, based on elevated arsenic levels in trout. A TMDL (total maximum daily load) has been established for dissolved zinc and cadmium for Silver Creek, which some interviewees believe is extremely stringent and difficult to attain.

Both history and the present day may present challenges for the Lower Silver Creek work group, which process design should attempt to address.

Current Status of Development Plans. The Summit County Commission approved the Silver Gate Ranches development at its March 15, 2006 meeting. Since no construction permits have been issued yet, we do not know the timing or location of intended construction, or the potential impact (if any) of tailings-related contamination.

Similarly, the existing Promontory development is expanding somewhat closer to the stream. Based on the distance from the stream, potential impact (if any) of tailings-related contamination is thought to be unlikely.

There are current discussions about possible wetland restoration work in the meadow area near the concrete plant.

The coordination of future development and other activities within the Lower Silver Creek work group area with environmental investigation and possible remediation / restoration of this area is critical. The work group will need to educate itself quickly about the relationship between planned development and areas within Lower Silver Creek that may pose a risk to human health and the environment.

Historical Reaction to Regulatory Agencies. The greater Park City area has a long history of resistance to regulatory approaches to local environmental problems, accompanied more recently by successful innovative local solutions. The Prospector Square area is the only area in the United States that Congress has ever exempted from placement on the National Priorities List under Superfund (at Park City's request), yet its local soils ordinance and environmental management system approach to preventing human exposure to contaminated tailings (known as "institutional controls") has received national recognition.

The larger Silver Creek Watershed Stakeholders Group has worked together over the past five years to build working relationships between previously conflicting interests, and to encourage an attitude of collaboration and innovation, rather than regulation and resistance. It is hoped that the participants in the Lower Silver Creek work group who come from the full Stakeholders Group will

bring that learning with them and will encourage any new participants who retain the historical resistance to regulatory agencies to keep an open mind. In addition, design of the process to encourage joint fact-finding and exploration of innovative solutions, as well as facilitation of the process by an independent third party (the facilitator), should provide reassurance to reluctant participants.

Landowner Cooperation. There are numerous (over 20) private landowners potentially affected by any investigation and possible remediation / restoration in the southern portion of Lower Silver Creek, some of whom have already established relationships with potential developers. Not all private landowners agreed to provide access to their land for sampling in 2001 when UDEQ was conducting its innovative site assessment. It is believed that some of these entities are philosophically opposed to any land use or other controls on development, and regularly challenge county land use decisions. We do not mention this to question the validity of these entities' actions, but merely to highlight the potential resistance that some interests may exhibit to the work group's efforts.

Landowner cooperation will likely be essential, however, for any further investigations within Lower Silver Creek and any potential future remediation / restoration. At a minimum, access to property will be necessary. At a maximum, landowner/developer participation in any remediation /restoration may be essential to the effort's success.

The practical import of these facts cannot be determined until more information is available that correlates potential contamination sources and areas possibly requiring remediation / restoration with land ownership and development plans. The Lower Silver Creek work group process must be open, transparent, and sensitive to keeping all landowners and known developers fully informed of its activities, to avoid surprises and misinterpretation to the extent possible.

The large number of landowners, the uniqueness of their individual property interests, and the need for cooperation from individual landowners makes it difficult, if not impossible, to select a

[2]
"representative" of this interest to participate in the work group process. The process should be designed to offer all landowners the opportunity to participate as fully as they wish in work group activities that may affect their property interest and/or that may require their cooperation. Process design must also be sensitive, however, to the logistical difficulty of working with large groups (greater than 20-25 members), as well as the respectful and efficient use of work group participants' time.

Multiplicity of Entities Potentially Responsible For and/or Capable of Taking Action. By contrast to some other portions of the Silver Creek watershed, there does not appear to be one financially capable entity that could be considered legally responsible for addressing any contamination found and performing remediation / restoration in Lower Silver Creek. (I.e., there does not appear to be one viable "potentially responsible party" under Superfund.) In addition, the landowners often do not undertake development of their property themselves. This means that the developer may be the entity that has relevant knowledge and/or technical capacity to conduct investigation and/or remediation / restoration on a given landowner's property. At a minimum, the developers should be a part of the work group process.

This situation will also require flexibility and innovation on the part of the work group participants to take responsibility for and find funding for any work that needs to be done. A stakeholder process, where all potentially affected interests work together to create a vision for the area, gather needed information, and make joint decisions to implement that vision, is ideally suited to deal with this type of situation.

Who Needs/Wants to be Involved

Based on the interviews conducted as part of this convening, Chart 1 reflects our identification of individuals and entities that may have an interest in the Lower Silver Creek work group's activities and discussions. This listing will need to be revisited periodically as more is learned about the nature and extent of contamination, as well as the nature and extent of remediation / restoration options. In particular, more or different landowners and/or developers may need to be included in the work group discussions as the focus of the group sharpens.

[3]
CHART 1:

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4178
801
536
4169

Name	Agency	Part of Full Stakeholder Group ??	Nature of Interest	Suggested as Work Group Member
Kathryn Hernandez	EPA Region 8	Yes	Superfund site project manager	Yes
Mo Slam Ty Howard	UDEQ / DERR	Yes	Superfund site project manager	Yes
John Whitehead Kari Lundeen	UDEQ / DWQ	Yes	TMDL / watershed coordinator	Yes
Brent Ovard	Summit County Health Dept	Yes	County Health Department	Yes
Sally Elliott	Summit County Commission	Yes	- Co. Commissioner - citizen on SH group	Yes
Michele Devaney Denise Hytonen	Summit County Comm. Development	No	Planning / zoning agency	Yes
Chris Cline	US Fish & Wildlife	Yes	Natural resource damages	Yes
Pam Kramer	UT Div Wildlife Resources	No	Wildlife habitat	Yes
Jason Gipson	US Corps of Engineers	No	Jurisdictional wetlands	Yes
Kerry Gee	United Park City Mines	Yes	- Coordination with UPCM-led activities - Watershed vision	Yes
John Knudson	UT Dept of Natural Resources / Parks	Yes	Owens rail trail	Yes
Jeff Schoenbacher Tom Bakaly	Park City Mun. Corporation	Yes	LSC landowner	Yes
20+ Landowners		No	LSC landowners	Yes
Jeremy Green	Promontory Development	No	LSC developer	Yes
Walt Plum	Silver Gate Ranches	No	LSC developer	Yes
Not yet identified	Not yet identified	No	LSC developers, but not landowners	Yes
John Tuerff	Citizens for Responsible Growth	??? [4]	Citizen advocacy on development issues	Yes
Jennifer Chergo	EPA Region 8	Yes	Community involvement	Resource
Dave Allison	UDEQ / DERR	Yes	Community involvement	Resource
Senta Beyer	Snyderville Basin Recreation District	No	Maintains / develops trails that intersect with rail trail	Resource
Chris Donaldson Kimber Gabryszak	Basin Open Space Advisory Committee	No	\$10 million bond to protect and acquire open space	Resource

Barbara Carey RC&D Coordinator	Uinta Headwaters Resource Conservation & Development Council	No	Possible funding and planning resource	Resource
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We suggest that the interests identified as “resource” be regularly informed of the work group’s efforts and be invited to specific meetings at which they can be used as a resource for discrete work group discussions.

Technical Information Available

In conducting this convening, Ms. Straube has identified the following technical information that may be relevant to the Lower Silver Creek work group’s efforts:

- *Innovative Assessment Analytical Results Report*, Lower Silver Creek, Summit County, Utah. Prepared by Ann M. Tillia, Utah Department of Environmental Quality, Division of Environmental Response and Remediation. Final dated 9/25/02. (Available at UDEQ/DERR)
- *TMDL for Silver Creek*. (Available at: http://www.deq.utah.gov/TMDL/SilverCreek/TMDL_11-15-04.pdf)
- *Fish Consumption Advisory for Trout from Silver Creek*. Utah Department of Environmental Quality. 10/27/04. (Available at: http://www.deq.utah.gov/News/2004/fish_advisory_info_sheet_102704.pdf)
- *Water Resources of the Park City Area, Utah with Emphasis on Ground Water*. Utah Department of Natural Resources (UDEQ/DERR) and US Geological Survey (USGS). Technical Publication No. 85. 1986. (Available at UDEQ/DWQ ??)
- *Principal Locations of Metal Loading from Floodplain Tailings, Lower Silver Creek, Utah, April 2004*. U.S. Geological Survey (USGS), prepared in cooperation with UDEQ. Draft 2005. (Currently at UDEQ / DWQ offices; not yet circulated to other agencies or entities)
- *Quantification of Metal Loading to Silver Creek Through the Silver Maple Claims Area, Park City, Utah, May 2002*. U.S. Geological Survey (USGS), prepared in cooperation with BLM and UDEQ. Water-Resources Investigations Report 03-4296. 2004. (Available at EPA and UDEQ)

Suggested Process

The Lower Silver Creek Work Group process design we suggest has been tailored to address the challenges identified in a previous section of this report.

Sponsor: This work group, as an outgrowth of the existing Silver Creek Watershed Stakeholders Group, should be sponsored by EPA. As is the case with the full Stakeholders Group, all entities retain their full decision-making authority and commit solely to coordinate activities that will impact the Lower Silver Creek environment to the greatest extent possible. EPA’s main role as sponsor of the collaborative effort is to provide funding for the logistics of the group’s meetings, including publicity and independent facilitation.

Work Group Membership: Suggested work group membership is reflected in Chart 1. While this group size is initially quite large (15 individually identified members *plus* 20+ landowners and an unknown number of developers), the design of the first two work group meetings is intended to assist the group in honing its focus so that individual landowners and developers can self-determine whether continued

meeting attendance or simply remaining "in the loop" will be appropriate to meet their interests. It is anticipated that, based on the results of the first two meetings, a natural attrition will occur.

Landowners and known developers will be sent a letter from Ms. Straube (by certified mail) containing an announcement about the Lower Silver Creek work group process, a description of the first two work group meetings, and a personal invitation to participate. We suggest that the invitation to participate come from an independent third party to emphasize the collaborative non-directive nature of the work group process.

The interests identified on Chart 1 as "resource" will not be an active part of the work group, but may attend any meetings they are interested in. They can be invited to participate in specific meetings where their knowledge and expertise will be most helpful. They will be specifically invited to participate in the second (visioning) work group meeting. In addition, these entities will receive all work group meeting summaries. These interests should be encouraged to contact the facilitator directly at any time with any questions or concerns.

Work Group Activities: Long term, it is our view that the work group will need to accomplish the following tasks:

- identify existing information about soil and water contamination within the southern portion of Lower Silver Creek
- identify data gaps, if any, and ways to gather the additional information
- create a vision for the future in this section of Lower Silver Creek, especially the areas containing or impacted by contaminated tailings
- identify options for remediation / restoration to meet the vision
- assign responsibility for implementation of remediation /restoration to meet the vision.

These work group tasks will be accomplished over a long period of time, and the work group process will necessarily be flexible and iterative. We suggest that the work group begin its efforts with two initial meetings, designed both to outline the potential scope of its activities and to begin creating the vision for the future that will serve as a goal for all future activities.

First Meeting. We suggest that the first meeting be held in early to mid-May. The primary goal of this meeting will be to identify and integrate known information about contaminated areas in Lower Silver Creek, the potential source(s) of contamination, vulnerable resources, and to correlate this information to land ownership and known development plans.

While all members of the work group will be welcome to attend this first meeting, the following members will be specifically invited (as opposed to given notice of) the meeting to share whatever relevant data they may have:

- EPA
- DEQ/DERR
- DEQ/DWQ
- Summit County Health
- Summit County Commission
- Summit County Community Development
- US Fish & Wildlife
- UT Div of Wildlife Resources
- US Army Corps of Engineers
- United Park City Mines
- UT Dept of Natural Resources / Parks
- Park City Municipal Corporation

Work group meetings will need to be held in a location that is potentially large enough to hold 40-45 people, just in case all interested parties choose to attend. We suggest the Summit County Services Building (Richins Building) in Kimball Junction as a suitable location.

A tentative agenda for the first work group meeting is attached to this convening report.

Second Meeting. We suggest that shortly after the first meeting, but with enough time to gather additional existing information and prepare visuals if necessary, the second meeting be held. The primary goal of this second meeting will be to present the known information about contaminated areas and vulnerable resources in Lower Silver Creek to the full work group, including all landowners and known developers, and to offer an opportunity for the full group to share their respective visions for this area. This will help guide the work group's next steps in conducting further investigation, if necessary, and in pursuing remediation / restoration options.

All interests identified on Chart 1 (both work group members and "resources") should be invited to attend this second meeting and to participate actively in the visioning part of the meeting. It is hoped that all landowners and developers will attend this second meeting.

Ongoing Public Outreach. It is critical that the work group's efforts be open and transparent, to build confidence in both the process and its outcome(s). Landowners, developers and the general public should have regular access to the data and other information that the work group reviews and generates. Activities that will support transparency include:

- Forwarding work group meeting minutes to all work group members and resource interests
- Updating and maintaining relevant information on the watershed Stakeholder Group website (www.silvercreekpc.org)
- Maintaining an information repository (hard copies) at a central location.

Tentative Agenda for First Work Group Meeting

Suggested Invited Participants: anyone with knowledge and/or data about existing soil and water contamination within the southern portion of Lower Silver Creek, potential sources thereof, and/or vulnerable environmental resources.

Suggested Outcomes of Meeting:

- Agreement with work group process and approach
- Consensus on geographic boundary of work group area
- Identification of additional stakeholders, if any
- Suggested changes for full Stakeholders' Group Statement of Goals to make it applicable to Lower Silver Creek work group
- Identification of all known information / data re: contamination, potential sources and vulnerable resources
- Assignments re: putting info / visuals together for second work group meeting
- Assignments of responsibility for ongoing public outreach (could be postponed to a later meeting, if run out of time)

Suggested Meeting Length: 2-3 hours

Suggested Agenda:

- intro and welcome to process – EPA
- summary of convening report and suggested process / how this meeting fits into process – Facilitator (ground rules on back of name tents)
- confirm geographic boundary – Facilitator
- confirm stakeholders included in work group – anyone missing? – Facilitator
- go over statement of goals from full Stakeholders Group and suggest necessary changes for Lower Silver Creek – Facilitator
- review known information – EPA lead, with round robin
- next steps to provide info to full work group in second meeting – Facilitator
 - who to present what?
 - create info / visuals for second meeting
- assign responsibility for ongoing public outreach (if time permits) – Facilitator
 - update and maintain website – EPA re-take responsibility
 - information repository
 - other suggestions

Tentative Agenda for Second Work Group Meeting

Suggested Invited Participants: all work group members, including all landowners and known developers, and "resource" interests

Suggested Outcomes of Meeting:

- Agreement with work group process and approach
- Identification of additional stakeholders, if any
- Consensus on statement of goals (as revised for work group)
 - If changes are suggested in this meeting that are major / contentious, table for full discussion at future meeting
- Identification of additional known information, if any
- Group vision for area – or clear idea of where differences are re: vision
- Next meeting
 - When
 - What to cover / accomplish
 - Which LOs/developers want to be active participants v. kept informed

Suggested Length for Meeting: half day (3-4 hours)

Suggested Agenda:

- intro and welcome to process – EPA
- summary of convening report and suggested process / how this meeting fits into process – Facilitator (ground rules on back of name tents)
- confirm geographic boundary – Facilitator
- confirm stakeholders included in work group – anyone missing? – Facilitator
- go over statement of goals from full SH group and suggested changes for Lower Silver Creek – any comments/concerns – Facilitator
- presentation on known information re: contamination, potential sources and vulnerable resources – Presenter(s) to be determined at first meeting
 - anything to be added?
 - Q/A
- visioning for area
 - brief round robin identification of each participant's future plans for their part of the area (and timing)
 - divide participants into pre-selected groups of 8-10 people (a mix of interests in each group) and have them brainstorm about a vision for the area – what should it look like post-development and post-remediation / restoration
 - small groups report back to full group
 - clarifying Q/A
- next steps for work group (in future meetings) – Facilitator
 - if general consensus re: vision for area, identify any additional data gathering and move on, when ready, to generating options for implementing vision
 - if no general consensus re: vision for area, identify any additional data gathering and explore pros/cons of different visions for future
- Have LOs self-select who comes to future meetings – Facilitator
- Public outreach / keeping them informed – Facilitator
 - Website
 - Preferences?

[1]

Landowners were not contacted personally in this convening phase in part because only tax record contact

information was available (often only PO box addresses). In addition, we concluded early on that *all* landowners would need to be involved in whatever process was designed, and we felt that a preliminary telephone contact, without firm ideas about how to move forward, might unduly raise concerns within this interest group. (See discussion below.)

[2] Collaborative decision-making processes are generally designed to include a "representative" or two from each interest group, rather than all potentially affected individuals and entities, in order to maintain a manageable group size.

[3] Wherever two names are reflected for one entity, they are considered alternates.

[4] While CARG was originally represented on the full watershed Stakeholders' Group, no CARG representative has attended meetings in the past 2+ years.